



UNITED STATES PATENT AND TRADEMARK OFFICE

7HC
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/330,963	06/11/1999	RICHARD EARL MCNUTT	ODS/6	1075

7590 12/03/2002

MATTHEW T BYRNE
FISH AND NEAVE
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 100201104

EXAMINER

CHERUBIN, YVESTE GILBERTE

ART UNIT	PAPER NUMBER
----------	--------------

3713

DATE MAILED: 12/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/330,963

Applicant(s)

MCNUTT ET AL. *OK*

Examiner

Yveste G. Cherubin

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,15-18,23-25,27,28,31-34,42-47 and 55-58 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

- 5) ☐ Claim(s) _____ is/are allowed.

- 6) ☒ Claim(s) 1,2,15-18,23-25,27,28,31-34,42-47 and 55-58 is/are rejected.

- 7) ☐ Claim(s) _____ is/are objected to.

- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to the RCE filed on September 12, 2002.

Response to Amendment

2. It has been noted that claims 1-2, 13-18, 23-25, 27-28, 31-34, 42-47, 55-58. However, Applicant also amended claims 13-14 which were previously cancelled in the previous amendment. Accordingly, claims 13-14 are being withdrawn from consideration, which leaves claims 1-2, 15-18, 23-25, 27-28, 31-34, 42-47, 55-58 pending in this instant application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 15-18, 23-25, 27-28, 31-34, 42-47, 55-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Kohorn (US Patent No. 5,759,101) in view of Wendkos (US Patent No. 6,278,980).

As per claims 1-2, 15-18, 23-25, 27-28, 31-34, 42-47, 55-58, Von Kohorn discloses an interactive wagering system capable of allowing participants to respond to a communication, whether by manual or electronic means, 14:32-37. Von Kohorn's

Art Unit: 3713

system allows for the simultaneous participation of people from across the country. Von Kohorn further provides a system wherein communication may be accomplished by dedicated communication lines, by a telephone system, via wireless or cable television or radio transmission, via satellite communications or a plurality of different forms of communication systems as may be convenient, 9:11-17, 72:54-67, 73:40-57. Von Kohorn discloses all of the limitations in the instant invention except allowing players the use of the internet communication. Wendkos teaches a system interactive on any type of network such as local area network, wide area network, public communications network such as the Internet, internal company network such as an Intranet, a CATV network, or a telephone network. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the internet communication feature as taught by Wendkos into the Von Kohorn type system in order to provide a user interface to real time interactive wagering system. Nowadays, gambling is increasingly becoming a major feature of interactive networks. So much so, it appears to be one of the largest sources of revenue generation on the Internet. This modification would enhance the Von Kohorn system and attract more players since more people are turning into the internet to do various types of transactions.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yveste G. Cherubin whose telephone number is (703) 306-3027. The examiner can normally be reached on 9:30 - 6:00.

Art Unit: 3713

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703) 308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ygc


November 27, 2002



VALENCIA MARTIN-WALLACE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700